

LIBRARY
SUPREME COURT, U.S.

Office - Supreme Court, U. S.
FILED
APR 14 1954

HAROLD S. WILEY, Clerk

IN THE
Supreme Court of the United States
OCTOBER TERM, 1953

No. _____, Original

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
Complainant,

v.

STATE OF LOUISIANA; STATE OF FLORIDA; STATE OF TEXAS;
STATE OF CALIFORNIA; GEORGE M. HUMPHREY; DOUGLAS
McKAY; ROBERT B. ANDERSON; IVY BAKER PRIEST,
Defendants.

PETITION FOR CLARIFICATION OF DECISION

WILLIAM E. POWERS
Attorney General of Rhode Island

BENJAMIN V. COHEN and
THOMAS G. CORCORAN,
Attorneys for Complainant

CORCORAN, YOUNGMAN & ROWE
EUGENE GREENMAN
Of Counsel

April 14, 1954

IN THE
Supreme Court of the United States

OCTOBER TERM, 1953

No. _____, Original

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
Complainant,

v.

STATE OF LOUISIANA; STATE OF FLORIDA; STATE OF TEXAS;
STATE OF CALIFORNIA; GEORGE M. HUMPHREY; DOUGLAS
McKAY; ROBERT B. ANDERSON; IVY BAKER PRIEST,
Defendants.

PETITION FOR CLARIFICATION OF DECISION

In its answer to Rhode Island's petition for rehearing, Louisiana explicitly admits that "the defendant states abstained from going into the merits in opposing the motion made for leave to file complaint." Louisiana's answer further explicitly admits that the meaning and effect of Public Law 31 "clearly pertains to the merits of the case and would only be timely in the event that this Court takes jurisdiction."

On the other hand, in their joint answer to Rhode Island's petition, California and Florida attempt to argue

that the Court actually considered and rejected the proposition that lands acquired by the United States in a proprietary capacity were, as Public Law 31 expressly provides, excepted from the operation of section 3 of that law, although there was no reference at all in the per curiam opinion to Public Law 31 and no consideration at all given in that opinion to the meaning and effect of Public Law 31.

The excerpt from the Executive Hearings of the Senate Interior Committee quoted in the answer of California and Florida to Rhode Island's petition for rehearing (p. 4) only serves to confirm that the proponents of Public Law 31 were conscious of the ambiguity of that statute and for political purposes left it deliberately ambiguous.

The position taken by California and Florida would attribute to this Court's refusal to permit the filing of Rhode Island's complaint a prejudging of the merits of grave and important issues which this Court has not considered and on which Rhode Island has not been heard. But it is not the practice of this Court to decide or prejudge matters of substance and importance without a full hearing of the parties and without an opinion of the Court on the essential points at issue.

Obviously there is conflict, even among the defendant states, as to what the Court has decided. A hearing on the serious issues involved and a clarification of the Court's decision are urgently required in the public interest.

Rhode Island respectfully submits that it has a standing and interest to sue and that this Court should take jurisdiction and decide whether Public Law 31 does or does not surrender to the defendant states lands acquired by the United States in a proprietary capacity and whether Public Law 31 does or does not make lawful the acts of the defendant states against which Rhode Island complains.

If, however, this Court after considering petition for rehearing still adheres to its decision dismissing the motion of Rhode Island for leave to file complaint, Rhode Island

respectfully requests that the Court should at the very least clarify its decision and make clear beyond doubt that this Court has not decided or prejudged without a hearing the meaning and effect of Public Law 31. It is evident that such clarification is required to enable the Congress to deal intelligently and responsibly with the situation resulting from the Court's dismissal of Rhode Island's motion. See discussion of Senator Douglas' proposal (sponsored by fourteen Senators) for the administration of the lands under the marginal sea owned by the United States as part of the outer Continental Shelf. Congressional Record, April 1, 1954, pp. 4095-4100.

Respectfully submitted,

WILLIAM E. POWERS

Attorney General of Rhode Island

BENJAMIN V. COHEN and

THOMAS G. CORCORAN,

Attorneys for Complainant

CORCORAN, YOUNGMAN & ROWE

EUGENE GRESSMAN

Of Counsel

April 14, 1954

Certificate of Counsel

We hereby certify that this Petition for Clarification of Decision is prepared in good faith and not for delay.

We further certify that a copy of this Petition has been served on all parties of record by mailing a copy of same to them, postage prepaid.

WILLIAM E. POWERS

Attorney General of Rhode Island

BENJAMIN V. COHEN and

THOMAS G. CORCORAN,

Attorneys for Complainant